

In re) Fair Hearing No. 15,315
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Appeal of)

The petitioner appeals the closure of his wife's Vermont Health Access Program (VHAP) medical benefits. The issue is whether the family's income is in excess of the program maximum.

The facts are not in dispute. The petitioner and his wife have combined gross income of \$1461.00 a month. The petitioner's income is from Social Security benefits--\$672.

ORDER

REASONS

¹The petitioner's wife works as a chambermaid and her hours vary seasonally. The petitioner was advised to reapply if his wife's income decreases.

expenses, a standard employment expense, and dependent care expenses. W.A.M. § 4001.81(c). The petitioner's wife is not self-employed and she has no children. Therefore, the only deduction for her allowed in the regulations is the standard employment expense of \$90. Id. § 4001.81(e). This brings the family's countable income to \$1371.80 a month.

Under the current regulations (see W.A.M. § 4001.84) the maximum allowable income for two persons is \$1327 a month. Procedures Manual § 2420. Unlike the Medicaid program, there is no provision in VHAP for a determination of "applied income" or a "spenddown", by which the incurring of a predetermined amount of excess medical expenses within a six-month period can trigger eligibility at that point. Being only slightly overincome, the petitioner and his wife would clearly benefit from such a provision. At present, however, there is no provision in the VHAP regulations for the consideration of medical expenses (or any other household expenses) as a deduction from gross income.

Inasmuch as the Department's determination in this case is in accord with the regulations, the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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